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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,587	10/03/2005	Christoph Hauger	Z50056	9032

1218 7590 06/14/2007  
CASELLA & HESPOS  
274 MADISON AVENUE  
NEW YORK, NY 10016

EXAMINER
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LYONS, MICHAEL A

ART UNIT	PAPER NUMBER
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2877

MAIL DATE	DELIVERY MODE
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06/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/538,587

Applicant(s)

HAUGER ET AL.

Examiner

Michael A. Lyons

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 61505 10605 82906.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the current drawings contain handwritten element labels and figure titles. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The abstract of the disclosure is objected to because the specification, in paragraph 0010, refers to the claim by number; this is inappropriate because originally filed claim 1, for instance, may not be the same as claim 1 upon any future amendments. Correction is required. See MPEP § 608.01(b).

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

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- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

#### Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:

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- (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
- (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

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- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

### *Claim Objections*

Claims 24 and 25 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claims are not further limiting because they are method claims that are dependent upon apparatus claims.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

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With particular regard to the above, claim 1 recites “the superimposition device has an emission device for emitting the measurement light and the reference light which is adapted and arranged relative to the sensor line such that extensive irradiation at least of a part of the sensor line with superimposed light is effected and the ratio of the distances covered by the measurement light and the reference light from the emission device to the respective impingement point on the sensor line varies in the portion of the sensor line, that is irradiated with superimposed light”. The examiner is unable to ascertain what aspect of the invention is being claimed here, as the literal translation is clumsy and extremely difficult to understand.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claims 2 recites the broad recitation not more than about 1000 sensor elements, and the claim also recites or sensor elements which are used, which is the narrower statement of the range/limitation.

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A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 3 recites the broad recitation not more than about 500 sensor elements, and the claim also recites sensor elements which are used which is the narrower statement of the range/limitation.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

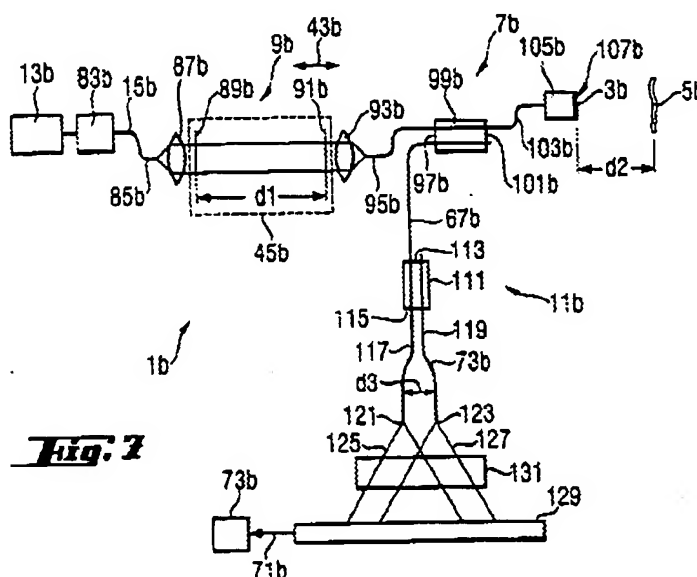
This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out



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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hauger et al (US 2002/0085208) in view of Shultz et al (5,666,195) as best understood by the examiner.**



Regarding claim 1, Hauger (Fig. 7) discloses an apparatus comprising a light source 13b for emitting time-incoherent light, a divider 99b for dividing the light emitted by the light source into a measurement light which is supplied to a specimen 5b and reference light, a superimposition device 121, 123 for spatially superimposing the measurement light reflected by the specimen with the reference light, and a sensor line 129 for detecting the light resulting from the superimposition, where the superimposition device has an emission device for emitting the measurement light and the reference light so that an extensive area of the sensor line is irradiated

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where the ratio of distances is determined via comparison of distances  $d_1$ ,  $d_2$ , and  $d_3$  in the optical system (see paragraph 0089 for example).

Hauger, however, fails to disclose the sensor line read-out rate being at least 60 kHz.

Shultz discloses, in an interferometric device, a linear detector array 83 that has a readout rate as fast as 20 MHz (Col. 7, lines 20-22).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a linear detector with a fast readout rate in the device of Hauger as per Shultz, the motivation being that the faster readout rate will enable the data rate output by the detector to be fast enough to allow for optimal operation of the optical device.

As for claims 2 and 3, the combined device as set forth above regarding claim 1 sets forth the claimed invention except for the limitation as to the number of sensor elements used in the sensor line. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use not more than 1000 sensor elements (claim 2) or 500 sensor elements (claim 3) of the sensor line, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

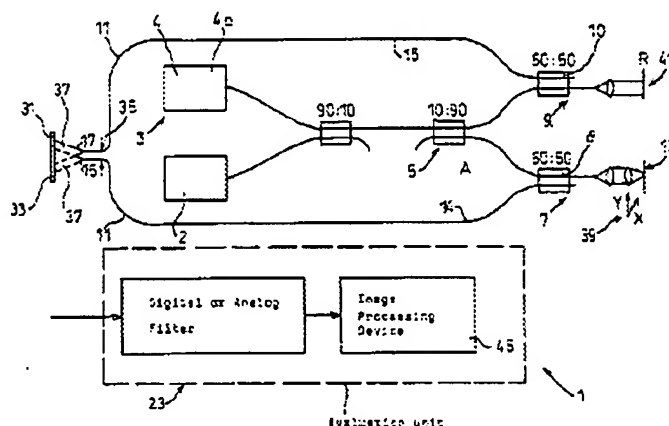
As for claims 4-7, the combined device set forth above discloses the claimed invention as set forth above regarding claim 1, but fails to disclose the depth variation of the microscope. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to set the depth variation to be at most  $N\lambda/4$  (which is dependent on the number of sensor elements and the wavelength of light used in the system), and less than 100  $\mu\text{m}$  (claim 5) or 20  $\mu\text{m}$  (claim 6), or so that its depth variation substantially corresponds to its depth resolution

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(claim 7), since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

It should be noted that language used in the claims such as “arranged to”, “is so selected”, “is adapted to” and so forth merely set out functional recitations of structural elements in the claim that have not been given patentable weight because the limitations are in narrative form. In order to be given patentable weight, a functional recitation must be expressed as a “means” for performing the specified function, as set forth in 35 U.S.C. 112, 6<sup>th</sup> paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D., 172; 388 O.G. 279.

**Claims 8-21 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hauger (US 2002/0085208) and Shultz (5,666,195) as applied to claim 1 above, and further in view of Knupfer et al (6,396,587).**



As for claims 8 and 12, the combined device discloses the further limitation of claim 1 where the measurement device uses a light source 13b for emitting light that is directed onto the specimen 5b.

The combined device, however, fails to disclose a microscope optical system for focusing the light on the optical system and at least one confocal aperture member.

Knupfer (Fig. 1) discloses an optical system for measuring a specimen 13 where a microscope optical system (shown to the left of element 13 in the above figure) which focuses light emitted from optical fiber 8 onto the specimen, and then focuses light reflected from the specimen back onto the confocal aperture at the end of fiber 8 (claim 12) for transport through the rest of the system.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a microscope optical system as per Knupfer in the combined device of Hauger and Shultz, the motivation being that the microscope system will increase the magnification and resolution of the optical device by focusing the light onto a small spot on the specimen rather than having a larger region of the specimen measured with more diffuse, spread out light.

As for claim 9, the combined device sets forth the claimed invention as disclosed above regarding claim 8 but fails to disclose the confocal aperture member being selected so that the depth extent of the confocal zone substantially corresponds to the depth variation of the coherence microscope. It would have been obvious to one having ordinary skill in the art at the time the invention was made to set the confocal aperture size to the proper size for optimal operation of the device, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

As for claim 10, Hauger discloses fiber 103b.

As for claim 11, the fiber used by Hauger is inherently monomode.

As for claim 13, the combined device discloses the claimed invention as set forth above regarding claim 10, but fails to disclose the use of a fiber bundle. It would have been obvious, however, to one having ordinary skill in the art at the time the invention was made to use a bundle of fibers in the place of a single fiber, since a fiber bundle will allow for the transport of more light at once than a single fiber, and since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

As for claim 14, as set forth above regarding claim 8, the end of the optical fibers act as the confocal aperture member.

As for claims 15 and 16, the combined device discloses the claimed invention as set forth above regarding claim 13, but fails to disclose the fiber bundle being integrated into an endoscope with the microscope optical system arranged at the distal end of the endoscope (claim 16). However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to integrate the fiber bundle into an endoscopic arrangement, since it has been held that integrating separate parts into a single device involves only routine skill in the art. *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

As for claims 17 and 23, the combined device discloses the claimed invention as set forth above regarding claim 13, but fails to disclose the settings for the numerical aperture and magnification of the optical system as claimed. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the numerical aperture and magnification be so that the optical resolution at the fiber bundle end face corresponds to the

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diameter of the fibers of the fiber bundle so that a maximum depth resolution is achieved (claim 23), the motivation being that such a resolution will ensure the maximum amount of light returning to the fibers instead of being wasted outside the system, and since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

As for claims 18 and 24, Knupfer further discloses a scanning device that is not shown in the figure, but is alluded to by element 39.

As for claim 19, the combined device discloses the claimed invention as set forth above regarding claim 18, but fails to disclose the defocusing lens. Official Notice is taken, however, as to the well known use of defocusing optical elements in interferometry, and it would have been obvious to one having ordinary skill in the art at the time the invention was made to add a defocusing lens to the combined device, the motivation being that a lens that slightly defocuses light causes the light to cover a broader spatial area, enabling more of an area to be illuminated by the light traveling through the system.

As for claim 20, the combined device discloses the claimed invention as set forth above regarding claim 18, but fails to disclose scanning control means. Official Notice is taken, however, as to the well known use of control means to control a scanner's function in interferometry, and it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide scanning control means to perform an initialization step in which a central position is ascertained, the motivation being that obtaining a central point will allow for optimal use of the device, as it provides a control point to refer back to for future measurements.

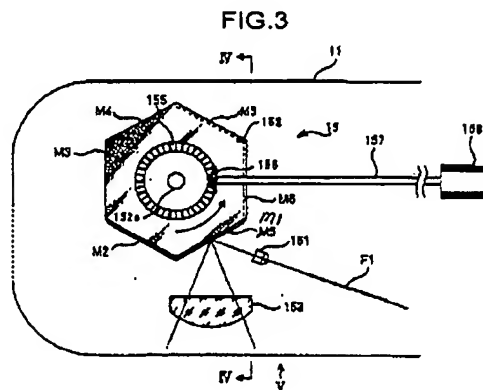
As for claim 21, the combined device discloses the claimed invention as set forth above regarding claim 18, but fails to disclose the linear arrangement of the elements. It would have been obvious, however, to one of ordinary skill in the art at the time the invention was made to arrange the claimed elements in a linear relationship, the motivation being that a linear arrangement of elements will allow for optimal operation of the device with minimal light loss; also, it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

As for claim 25, the combined device discloses the claimed invention as set forth above regarding claim 24, but fails to disclose the width of the one-dimensional line. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to set the one-dimensional line to be the desired resolution and/or the desired signal strength as claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

It should be noted that language used in the claims such as “arranged to”, “is so selected”, “is adapted to” and so forth merely set out functional recitations of structural elements in the claim that have not been given patentable weight because the limitations are in narrative form. In order to be given patentable weight, a functional recitation must be expressed as a “means” for performing the specified function, as set forth in 35 U.S.C. 112, 6<sup>th</sup> paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D., 172; 388 O.G. 279.

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**Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hauger (US 2002/0085208), Shultz (5,666,195), and Knupfer (6,396,587) as applied to claim 21 above, and further in view of Utusi et al (6,788,861).**



As for claim 22, the combined device sets forth the claimed invention as disclosed above regarding claim 21, but fails to disclose a rotatable polygonal mirror for the scanning device.

Utusi (Fig. 3) discloses an endoscope system that features a rotating polygonal mirror 152 for scanning light.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the scanning feature of the combined device a rotating polygonal mirror as per Utusi, the motivation being that the rotating polygonal mirror provides more reflective surfaces to scan the light towards the specimen than a simple flat scanning mirror can provide.

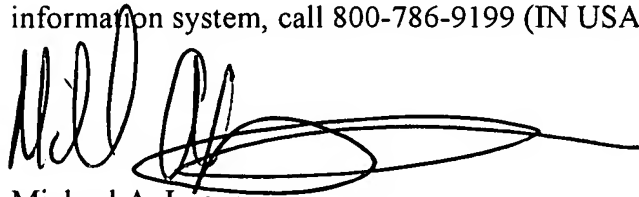
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael A. Lyons whose telephone number is 571-272-2420. The examiner can normally be reached on Monday through Friday.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley can be reached on 571-272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'M. Lyons', followed by a large, stylized circular flourish.

Michael A. Lyons  
Patent Examiner  
June 11, 2007